

HUL Fights for Rights over Kwality Walls

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Mumbai: Hindustan Unilever has dragged Kwality Ltd to court claiming sole rights over Kwality Walls, the brand used for HUL's ice creams for over two decades.

In a partial relief to the country's largest consumer product company, the Calcutta High Court directed Kwality Ltd to not use the original writing style of Kwality Walls for any of its dairy products, but continue to use its currently operational registered trademark KDIL'S Kwality.

However, the court also said Kwality Ltd should not get into ice cream, ice lollies and frozen desert categories with KDIL'S Kwality brand while HUL is restrained to enter the dairy category with Kwality brand.

"Considering the fact that the defendant (Kwality) has been using the word 'Kwality' in conjunction with other words and was incorporated much before the dispute arose with no objection from the plaintiffs (HUL) or any of them, an order of injunction at this stage would cause irreparable prejudice to the defendant compared to that of the plaintiff if not granted at this stage, the following interim order is passed," observed Justice Soumen Sen while passing an order. ET has reviewed the order copy.

In the ₹12,000-crore ice cream market, HUL is the second largest player after

Amul with share of over 8% according to Euromonitor. Earlier this month, HUL filed a suit in the Calcutta High Court against Kwality Ltd alleging wrongful appropriation of the trademark. HUL also claimed that use of the brand name (Kwality Walls) for dairy products, including flavoured milk which can be considered as an extension of ice creams, has resulted in confusion in the market.

"The court has simply reiterated well established fundamental principles of trademark law, and the order therefore is logical. The only peculiarity is the plaintiff suffering an injunction in its own suit by having being restrained from entering into the defendant's product lines using its Kwality mark. Perhaps a reading of the Order will shed more light on the rationale behind such a direction," said Priyanka Khimani, partner, Anand & Anand & Khimani.

Food entrepreneurs Iqbal Ghai and PL Lamba founded the ice cream company under the 'Kwality' brand in pre-Independence Delhi in 1940. By early 1980s, the ice cream business was divided into four regions and the brand's trademark was split amongst the proprietors in these territories. Between 1994-95, these different proprietors sold all rights along with goodwill of the trademark 'Kwality' to HUL.

The core dairy business that was set up to supply milk as backward integration for the ice cream company was acquired by the Dhingra family in 2002.